

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

September 11, 2006

Before

Hon. KENNETH F. RIPPLE, *Circuit Judge*

Hon. ILANA DIAMOND ROVNER, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

No. 01-1657

Tejapaul S. Jogi,

Plaintiff-Appellant,

v.

Tim Voges, et al.,

Defendants-Appellees.

Appeal from the United States District
Court for the Central District
of Illinois

No. 00-CV-2067

Harold A. Baker,
Judge.

ORDER

On September 27, 2005, we issued our opinion in this case. See *Jogi v. Voges*, 415 F.3d 367 (7th Cir. 2005). Appellees filed a petition for rehearing and rehearing *en banc* on November 10, 2005. By order issued January 4, 2006, the court decided to hold this petition in abeyance pending the resolution of two cases then pending before the Supreme Court of the United States, which have since been decided in a joint opinion under the name *Sanchez-Llamas v. Oregon*, 126 S.Ct. 2669 (2006). In accordance with our January order, the parties have filed statements with the court indicating how they believe the petition for rehearing and rehearing *en banc* should be resolved.

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In light of the Supreme Court's opinion in *Sanchez-Llamas* and the parties' submissions, the panel has concluded that supplemental memoranda would assist it in resolving this petition. The parties are therefore requested to address the following questions, in memoranda to be submitted in accordance with the timetable in this order:

1. What, if anything, does 28 U.S.C. § 1350, add to the analysis of subject matter jurisdiction in this case, in light of the Supreme Court's holding in *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004), that § 1350 is a jurisdictional statute, and in light of the fact that 28 U.S.C. § 1331 authorizes the district courts to exercise subject matter jurisdiction in cases arising under treaties, among other things?

2. Given the fact that the defendants in the present case are state actors, does 42 U.S.C. § 1983 provide a private right of action to assert a violation of the Vienna Convention? If so, does this make it either unnecessary or undesirable to decide whether the Vienna Convention itself gives rise to an implied private right of action, given the broader implications that attend interpretation of a treaty?

The parties are to submit their memoranda responding to these questions by the following dates:

The memorandum of appellant is due by September 25, 2006.

The responsive memorandum of appellees is due by October 5, 2006.

Any reply memorandum appellant wishes to file is due by October 12, 2006.